

Application No. 10/776,727

No. 5000-1-521

REMARKS

Entry of this amendment, reconsideration of all grounds of objection and rejection in the Office Action, and allowance of the pending claims are respectfully requested in light of the following remarks. Claims 1-8 remain pending herein. Claim 9 has been canceled without prejudice or disclaimer and its subject matter incorporated into claim 1. Claim 1 is an independent claim.

The Abstract has been edited to remove the objection thereto.

Claims 1 and 3-7 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Applicant's Admitted Prior Art (AAPA) in view of McAlpine (U.S. Pat. Appln. Pub. No. 2002/0141427) and Bray (U.S. 5,487,061). Claim 2 stands rejected under 35 U.S.C. §103(a) as allegedly being obvious over AAPA in view of McAlpine and Bray, as applied to claim 1, and further in view of King *et al.* (U.S. 6,314,106) ("King"). Claim 8 stands rejected under 35 U.S.C. §103(a) as allegedly being obvious over AAPA in view of McAlpine and Bray, as applied to claim 1, and further in view of Feig *et al.* (U.S. Pat. Appln. Pub. No. 2002/0085713) ("Feig"). Claim 9 stands rejected under 35 U.S.C. §103(a) as allegedly being obvious over AAPA in view of McAlpine and Bray, as applied to claim 1, and further in view of Osborne. (U.S. 6,032,179). Applicant respectfully traverses these grounds of rejection for the reasons indicated herein below.

With regard to the rejections under 35 U.S.C. 103(a), claim 1 has been amended to recite in part:

(f) checking a status of the first buffer in the course of transferring the data frames stored in the second and/or third buffer in step (e), and if the data frame in the first

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buffer exceeds the low water mark, then interrupting the transference of the data frames stored in the second and/or third buffer and transferring the data frame stored in the first buffer with the highest priority; and
wherein if more than one buffer exceeds the low water mark, transferring the data from the buffer having the highest priority according to the HPFA algorithm.

Support for the above amendments to claim 1 is found in claim 9 and the recited HPFA algorithm.

The presently claimed invention has the advantage of not only overcoming the "penalty phenomenon", but the last recitation in claim 1 also addresses the situation where there is more than one buffer exceeding the low-water mark.

Applicant respectfully submits that the combination of the AAPA, McAlpine and Bray with any combination of King Feig, or Osborne does not disclose nor would have otherwise rendered any of the present claims obvious to a person of ordinary skill in the art at the time of invention. Nor would the combination of elements, as recited in the claims, have been obvious to a person of ordinary skill as being within the ordinary level of skill in the art (*KSR International v. Teleflex*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007)). The combination of references are completely silent regarding the situation where two buffers exceed the low-water mark.

For at least the above reasons, Applicants respectfully submit that claims 1 and 3-7 would not have been obvious to a person of ordinary skill in the art at the time of invention in view of the combination of AAPA, McAlpine and Bray. Reconsideration and withdrawal of this ground of rejection are respectfully requested.

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With regard to the rejection of claims 2 and 8, Applicant respectfully submits that the addition of King, Feig or Osborne to the combination of AAPA, McAlpine and Bray still fails to render obvious even independent claim 1.

For all the foregoing reasons, Applicant respectfully submits that claims 1-8 would not have been obvious to a person of ordinary skill in the art in view of the cited references. Nor would the combination of elements, as recited in claims 1-8, have been obvious to an artisan as being within the ordinary level of skill in the art (*KSR International v. Teleflex*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007)).

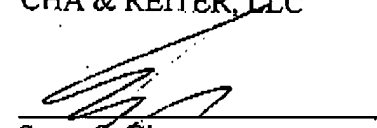
Applicant respectfully submits that for all the foregoing reasons, all grounds of objection and rejection in the Office Action are overcome. A Notice of Allowance is respectfully requested.

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In the event that any additional fee is required to continue the prosecution of this Application as requested, please charge such fee to Deposit Account No. 502-470. If the Examiner has any questions regarding this Application, it is respectfully requested that the Applicant's attorney of record be contacted at the below-noted telephone number.

Respectfully submitted,
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